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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,528	03/25/2004	Yi Ta Chen	MR1891-198	5938
4586	7590	08/16/2005	EXAMINER	
ROSENBERG, KLEIN & LEE 3458 ELLICOTT CENTER DRIVE-SUITE 101 ELLICOTT CITY, MD 21043			LOWEN, ALYSSA	
			ART UNIT	PAPER NUMBER
			3714	

DATE MAILED: 08/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/808,528	CHEN, YI TA	
	<b>Examiner</b>	<b>Art Unit</b>	
	Alyssa M. Lowen	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. Figure 8 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

2. Claim 5 is objected to because of the following informalities: The word cover is misspelled, it appears as "caver" in the claim. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

Art Unit: 3714

2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. Claims 1,3, and 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng (4254577) in view of Olsen (D295642). Cheng discloses the basic inventive concept of a casing having a first and second room (Fig. 1) with a pivot (26) longitudinally mounted in the first room of the casing (Fig. 2) and a wheel set connected to the pivot where the shaft of the wheel set extends through the pivot and casing (Fig. 1). Also disclosed is a drive device, with a power supplier consisting of a motor and gear assembly, mounted in the second room through which a second shaft extends with wheels attached on both sides (Fig. 1). The second shaft also extends through the casing as well (Fig. 1). These inventive concepts were disclosed substantially as claimed with the exception of the device being a moving unit of a building block assembly. However, Olsen shows a vehicle chassis for use with building blocks to be old in the art. It would have been obvious to one of ordinary skill in the art at the time of invention from the teaching of Olsen to modify the chassis of Cheng by adding the building block feature in order to create a moving unit for a building block assembly that more closely imitated the movement of a vehicle since it would be capable of turning and moving on its own. In regard to claim 3, the modified device of Cheng would include the multiple stubs extending from the top of the casing for connecting building blocks as shown by Olsen (Fig. 1). Regarding claim 8, the modified device of Cheng would contain two openings laterally communicating with the first room through which the shaft extends as shown by Olsen (Fig. 2).

6. With regards to claims 6 and 7, the modified device of Cheng discloses a pivot that is a protrusion extending longitudinally from the first room of the casing (26) with a hole going through the protrusion and having an outer lip (27) to keep the shaft in place (Fig. 2). The modified device does not disclose expressly an annular groove in the inner diameter of the hole to which a pivot can be attached having a stub with an annular lip along the outer diameter to pivotally be received in the hole and the pivot having a slot opposite the stub with an enlarged portion at the bottom of the slot for receiving the shaft after it passes through the slot. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to further modify the device of Cheng to insert a pivot piece into the hole that would be used to secure the shaft and allow it to rotate because Applicant has not disclosed that the pivot as claimed provides any advantage in the pivoting ability of the shaft. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the shaft having a hole through which the protrusion in the casing would fit because the shaft would still be able to rotate without the need for additional parts. Therefore, it would have been an obvious matter of design choice to further modify the device of Cheng to obtain the invention as specified in claims 6 and 7.

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng in view of Olsen as applied to claim 1 above, and further in view of UraKawa (4684355). The modified device of Cheng discloses the invention substantially as claimed except for the power supplier being a gear set with an attached spring through which the shaft

Art Unit: 3714

would extend. However, Urakawa shows this feature to be old in the toy vehicle art. Urakawa describes a gear and spring assembly to power a toy car (column 2 line 61). It would have been obvious to one of ordinary skill in the art at the time of invention to change the power supplier of Cheng to a gear and spring assembly in order to minimize the amount of space needed to fit the drive device since additional powering units such as batteries would not be necessary.

8. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng in view of Olsen as applied to claim 1 above, and further in view of Kumakawa (4173287). The modified device of Cheng discloses the invention substantially as claimed except for the casing having multiple indentations around the periphery and a cover having multiple protrusions laterally extended so as to be received in the indentations in the casing. However, Kumakawa shows this method of connection to be old in the art, by disclosing a means of creating an encasement using an interlocking system of indentations and protrusions (Fig. 7). It would have been obvious to one of ordinary skill in the art at the time of invention to make the chassis and building block portion of the device of Cheng and Olsen attachable using this system as taught by Kumakawa to avoid the need for additional parts such as screws or bolts to attach the two pieces which would also make it easier to access the wheel set and drive device should any problems arise.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nagaoka (4710148) describes a toy vehicle with a gear and

Art Unit: 3714

spring drive unit. Harms (6616500) describes a building block vehicle with wheels capable of turning.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Lowen whose telephone number is (571) 272-2684. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's acting supervisor, Jessica Harrison can be reached on 571-272-4449. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AML

*Chanda L. Harris*  
CHANDA L. HARRIS  
PRIMARY EXAMINER